44. Most parties maintain that the 1996 Act does not require, and the Commission should not mandate, a separate presubscription choice for international calling.[87] Several parties take the position that the toll dialing parity requirement applies to international calling only to the extent that it entitles a customer to route automatically without the use of an access code the customer's international calls to the customer's presubscribed interLATA carrier.[88] A number of parties contend that the technology required to support a separate presubscription choice for international calling, the so-called multi-PIC or smart-PIC methodology, is not currently available.[89] USTA suggests that the cost of providing a separate presubscription choice for international calling should be weighed against the amount of customer demand for such an option, and the harm to consumers that may result from a potentially greater number of unauthorized carrier changes.[90] AT&T, Ameritech, Sprint and the Indiana Commission urge the Commission to revisit the issue of a separate presubscription choice for international calling only after it is demonstrated to be technically and economically feasible.[91]

b. Discussion

45. While we believe that a separate presubscription choice for international calling is consistent with the intent of the 1996 Act because it could foster additional carrier competition, we recognize that technical limitations preclude our imposing such a nationwide requirement at this time.[92] To the extent that such a capability becomes technically feasible and is ordered in a particular state, we find that the deployment of a separate presubscription choice for international calling is consistent with the 1996 Act. We will address in a further notice at a future date the issue of how soon a separate presubscription choice for international calling will be technically feasible on a nationwide basis.[93]

---

[87] *See, e.g.*, SBC reply at 3 n.6; AT&T comments at 4 n.4.

[88] *See, e.g.*, SBC comments at 5.

[89] Ameritech comments at 18-19; Bell Atlantic reply at 3; CBT comments at 4-6; SBC comments at 5; U S WEST comments at 6; Sprint comments at 4-6; USTA reply at 2; *cf.* Sprint comments at 6 (noting implementation of multi-PIC system by GTE-Hawaiian Telephone Company that offers customers a separate international presubscription option).

[90] USTA comments at 3.

[91] Ameritech comments at 18-19; AT&T comments at 5 n.6; Sprint comments at 5; Indiana Commission Staff comments at 9.

[92] Bell Atlantic reply at 3; CBT comments at 4-6; SBC comments at 5; U S WEST comments at 6; Sprint comments at 4-6; USTA reply at 2.

[93] Sprint comments at 6 (noting development of multi-PIC system by GTE-Hawaiian Telephone that offers customers a separate international presubscription option). It is our understanding that GTE Hawaiian Telephone Company has multi-primary interexchange carrier capability that enables customers in Hawaii to select three

4. Full 2-PIC Presubscription Method

a. Background

46. In the *NPRM*, the Commission sought comment as to whether the Commission should adopt a nationwide presubscription methodology for implementing the toll dialing parity requirements.[94] The *NPRM* also noted that states have adopted a variety of intraLATA toll dialing parity requirements and implementation methodologies.[95]

47. Among the presubscription methodologies that states have examined are the "modified 2-PIC," the "full 2-PIC," and the "multi-PIC" or "smart-PIC" methods.[96] The modified 2-PIC method generally allows a customer to presubscribe to a telecommunications carrier for all interLATA toll calls and to presubscribe to either the customer's presubscribed interLATA carrier or the customer's local exchange carrier for all intraLATA toll calls. The full 2-PIC method generally allows customers to presubscribe to a telecommunications carrier for all interLATA toll calls and to presubscribe to another telecommunications carrier (including, but not limited to, the customer's local exchange carrier) for all intraLATA toll calls. The multi-PIC or smart-PIC methods, as known today, would allow customers to presubscribe to multiple carriers, each one of which would be selected to transport a specified component of toll traffic.

---

long-distance carriers, *i.e.*, an intrastate, interstate, and international carrier. *See ex parte* letter from Clarence Clay M. Nagao, Chief Counsel, State of Hawaii Public Utilities Commission, Department of Budget and Finance, to Mr. William F. Caton, Acting Secretary, Federal Communications Commission, filed in CC Docket No. 96-98, July 2, 1996. We note that the arrangement by which GTE Hawaiian Telephone Company provides a third carrier choice for international calling is a unique, interim solution that uses a combination of carrier identification codes and switch routing databases. This solution is not suitable for nationwide deployment because the switch database is too limited in size and the supply of CICs too small to support an adequate number of interLATA/international carrier combinations in many areas of the country. *Ex parte* letter from F.G. Maxson, GTE Service Corporation, to William F. Caton, Acting Secretary, Federal Communications Commission, filed in CC Docket No. 96-98, August 6, 1996.

[94] *NPRM* at para. 210.

[95] *Id.*

[96] *Id.*

b. Comments

48. Nearly all parties favor adoption of the full 2-PIC method.[97] Few parties favor deploying the modified 2-PIC method.[98] Likewise, few commenters favor immediate deployment of the multi-PIC method.[99] Several parties suggest that the multi-PIC or smart-PIC methodology and technology may warrant consideration in the future, but is currently unavailable.[100] Others maintain that the Commission should conclude that the 2-PIC approach is consistent with the 1996 Act based on the theory that the 1996 Act does not require more than a two-PIC capability to achieve toll dialing parity.[101]

c. Discussion

49. We adopt in this *Order* the full 2-PIC method as the minimum presubscription standard. Under our rules and pursuant to section 251(d)(3),[102] however, state commissions may impose more stringent presubscription requirements, such as multi-PIC or smart-PIC.

50. We adopt the full 2-PIC method as the minimum presubscription standard at this time for several reasons. We conclude that, as compared with the modified 2-PIC method, the full 2-PIC method will maximize choice for consumers and open the long-distance telecommunications markets to a greater number of competitive services providers, including smaller providers, and thus is more consistent with the congressional objectives underlying enactment of section 251(b)(3). Second, this method clearly is preferred by the majority of state regulators and telecommunications service providers.[103] Third, as compared with the multi-PIC method, the technology for the full 2-PIC method is widely available and well defined. By contrast, there is no evidence in the record to support a finding that the technical and economic feasibility of the multi-PIC method has been demonstrated on a nationwide

---

[97] *See, e.g.*, Michigan Commission Staff comments at 4; MCI comments at 5-6, Pennsylvania Commission comments at 2; SBC reply at 2; PacTel reply at 10-11.

[98] *See, e.g.*, Sprint comments at 5; USTA comments at 3.

[99] GSA/DOD reply at 4 (In initial comments, "GSA favored a 'multi-PIC' arrangement . . . . Although there was conceptual support for eventual implementation of the 'multi-PIC' methodology, it is clear that the technical and economic feasibility of this approach has not yet been demonstrated."); GVNW comments at 6 ("[T]he FCC should not require [the smart-PIC method] on a nationwide basis or schedule, as this will result in uneconomic network upgrades, added costs for the incumbent LECs, and higher prices to customers and competitors").

[100] *See, e.g.*, Ameritech comments at 18-19; AT&T comments at 5 n.6; CBT comments at 4; GVNW comments at 3; Indiana Commission Staff comments at 9; Sprint comments at 5.

[101] SBC reply at 3; GTE reply at 12-13.

[102] 47 U.S.C. § 251(d)(3).

[103] *See, e.g.*, Pennsylvania Commission comments at 2; SBC reply at 2; PacTel reply at 10-11.

basis. We conclude that this national standard should speed competitive entry into the intraLATA and intrastate toll markets while providing states that are considering a more stringent presubscription method, *i.e.*, multi-PIC or smart-PIC, flexibility to impose such additional requirements. Until the Commission considers the issue of multi-PIC or smart-PIC methods in a further notice, we believe that the states are best situated to evaluate the technical feasibility and economic impact of such methods on LECs, including smaller LECs, in their jurisdictions.

5. Deployment of Presubscription Software in Each End Office

a. Background

51. With end office equal access, presubscription software is installed at each end office switch within the LEC's service areas. Toll calls are then directly routed at each end office switch to the presubscribed provider of telephone toll service. With centralized equal access, presubscription software is installed at a central tandem switch location. With the latter, toll calls are routed from an end office to a tandem switch for presubscription information.[104] Providers of telephone toll service may connect at the tandem to receive this traffic rather than at each individual end office that is associated with the tandem.

b. Comments

52. MCI raises the issue of whether presubscription software should be deployed in each end office or at a single tandem location and proposes that the Commission require end office equal access rather than centralized equal access.[105] Specifically, MCI argues that end office equal access represents a superior form of access to the extent that it enhances redundancy and reduces post dial delays.[106] Centralized equal access should not be permitted, MCI maintains, insofar as that approach requires that all end offices receive the equal access features from the tandem and any interruption in service from the tandem can affect a larger number of subscribers on the system.[107] In addition, because calls are routed from the end office to the tandem and back, MCI contends that centralized equal access would result in significant post-dial delay.[108] MCI does suggest, however, that in areas that "would not

---

[104] In this context, presubscription information refers to the information that is used by the switch to determine which interconnecting carrier carries and bills for the call.

[105] MCI comments at 5.

[106] *Id.*

[107] *Id.*

[108] *Id.* MCI does not attempt to define or quantify the term "significant."

otherwise convert to interLATA or intraLATA equal access, centralized equal access provides consumers at least a limited form of carrier choice."[109]

53. Two commenters who are centralized equal access providers oppose MCI's position.[110] Specifically, Iowa Network Services and MIEAC counter that centralized equal access is not inferior to end office equal access and repeatedly has been found to serve the public interest by the Commission and numerous state regulatory commissions.[111] MIEAC takes issue with MCI's argument that centralized equal access is inferior to end office equal access, noting that recent technological advances, and the use of SS7 trunk signaling, in particular, have improved call set up times and reduced post dial delay.[112] Iowa Network Services calls the argument that centralized equal access provides less network redundancy a "red herring" and notes its recent installation of a redundant fiber ring facility to connect its participating exchanges, which will allow instant rerouting of traffic in the case of a facilities equipment failure.[113] Iowa Network Services also operates a "diversity access tandem" that provides switch redundancy should its primary tandem fail.[114] MIEAC argues that centralized equal access networks fully comply with the toll dialing parity requirement of section 251(b)(3) insofar as these networks support 2-PIC presubscription.[115] Finally, MIEAC and Iowa Network Services contend that centralized equal access represents an appropriate method of providing equal access in rural areas where it otherwise would not be technically or economically feasible.[116]

c. Discussion

54. The issue of presubscription software deployment was not raised in the *NPRM* and, as a result, few commenters address it. We conclude that the record is not sufficient for us to require LECs, pursuant to section 251(b)(3), to provide end office equal access rather than centralized equal access to competing providers of telephone toll service. No specific information is provided, let alone consensus reached in this record, on such threshold issues as

---

[109] *Id.* at 5 n.7.

[110] *See generally* Iowa Network Services joint reply; MIEAC reply.

[111] Iowa Network Services joint reply at 4-7; MIEAC reply at 2-4.

[112] MIEAC reply at 3.

[113] Iowa Network Services joint reply at 5.

[114] *Id.*

[115] MIEAC reply at 3-4.

[116] *Id.* at 5-7; Iowa Network Services joint reply at 2 (noting that centralized equal access fosters intraLATA and interLATA competition by making equal access technology available in exchanges where installation of end office equal access is economically or technically infeasible).

the technical and economic feasibility of placing the software in one location over another. We note that while MCI and Iowa Network Services disagree generally on the benefits of deployment locations, neither addresses such important implementation issues as whether different switching equipment owned by various companies might provide obstacles to deployment, or the relevant costs associated with one deployment scheme over another. Iowa Network Services, we further note, does not address how its proposal would comport with the Commission's generally prescribed requirement under which most LECs are required to implement equal access at end offices.[117] Based on the reasons stated above, and based on our concern regarding the harm that could come to small telecommunications services providers if we adopt MCI's proposal, we decline to adopt at this time a requirement prescribing the location for deployment of presubscription software under section 251(b)(3).

C. Implementation Schedule for Toll Dialing Parity

1. Background and Comments

i. Timetable for BOCs

55. Section 271(e)(2)(A) requires a BOC to provide intraLATA toll dialing parity throughout a state "coincident with" its exercise of authority to provide in-region, interLATA services in that state.[118] Section 271(e)(2)(B) precludes most states from imposing intraLATA toll dialing parity requirements on a BOC before the earlier of the date on which a BOC is authorized to provide in-region, interLATA services in a state or three years from the date of enactment of the 1996 Act.[119] The *NPRM* sought comment on what implementation schedule should be adopted for all LECs.[120]

56. The BOCs generally argue that section 271(e)(2) establishes the relevant implementation schedule for all BOCs and, thereby, obviates the need for a nationwide implementation schedule for BOCs.[121] For example, Ameritech argues that, except in single-LATA states and where a state has previously ordered intraLATA presubscription, section 271(e)(2) requires a BOC to implement intraLATA toll dialing parity "coincident with its

---

[117] *See generally MTS and WATS Market Structure*, CC Docket No. 78-72, Phase III, 100 F.C.C. 2d 860 (1985).

[118] 47 U.S.C. § 271(e)(2)(A).

[119] 47 U.S.C. § 271(e)(2)(B). Exceptions from this requirement are made for single-LATA states and states that issued an order by December 19, 1995, requiring intraLATA toll dialing parity. *Id.*

[120] *NPRM* at para. 212.

[121] *See, e.g.*, Ameritech comments at 19.

exercise of in-region, interLATA authority" or three years after enactment of the 1996 Act.[122] Other parties urge the Commission to require BOCs to implement toll dialing parity in advance of these dates on the theory that only the states, and not the Commission, are constrained by the limitations in section 271(e)(2)(B).[123] Frontier suggests that the Commission mandate that dialing parity be made available immediately for interstate, intraLATA toll calls.[124] AT&T asserts that "except as provided in Section 271(e)(2)(B), the Commission should require all Tier 1 LECs to implement dialing parity, utilizing the Full 2-PIC method, by January 1, 1997."[125] NYNEX maintains that the Commission should recognize and give effect to state orders granting deferrals or waivers of the toll dialing parity requirements.[126]

ii. Timetable for all other LECs

57. For all other LECs, other than BOCs, the 1996 Act provides no timetable for implementing toll dialing parity. The *NPRM* sought comment on what implementation schedule should be adopted for all LECs.[127]

58. USTA argues that there is no need for a uniform implementation schedule and suggests that the Commission permit states to adopt their own timetables.[128] PacTel similarly opposes our adoption of an implementation schedule and advocates that all LECs be permitted to design their own schedules based on "local conditions and state requirements."[129] In contrast, MCI urges the Commission to adopt an implementation schedule based on the concern that incumbent LECs, if permitted to design their own timetables, would delay implementation because they lack incentive to implement dialing parity quickly. TCC proposes that non-BOC incumbent LECs should be required to provide toll dialing parity by no later than January 1, 1997.[130] NECA argues that a LEC's obligation to provide dialing parity should be triggered only upon the receipt of a *bona fide* request from a competitive toll

---

[122] *Id.*

[123] *See, e.g.*, Sprint comments at 6 n.3.

[124] Frontier comments at 2.

[125] AT&T comments at 5.

[126] NYNEX comments at 3 n.7.

[127] *NPRM* at para. 212.

[128] USTA reply at 3-4.

[129] PacTel reply at 12.

[130] TCC comments at 4.

provider.[131] Finally, MFS suggests that incumbent LECs be required to implement intraLATA toll dialing parity within a year of the effective date of the rules, or by the date previously ordered by a state commission.[132] MFS also asks the Commission to adopt rules specifying that in any geographic area where a BOC is not required to provide intraLATA presubscription pursuant to section 271(e)(2)(A), no other LEC in that geographic area will be required to provide toll dialing parity until the BOC is required to provide it.[133]

2. Discussion

59. As discussed above, we require all LECs to provide intraLATA and interLATA toll dialing parity no later than February 8, 1999. In addition, we require a LEC, including a BOC, to provide toll dialing parity throughout a state based on LATA boundaries coincident with its provision of in-region, interLATA or in-region, interstate toll services in that state. As discussed below, for non-BOC LECs that currently are providing, or within a year of release of this *Order* begin to provide, in-region, interLATA or in-region, interstate toll service, we provide a grace period during which those LECs will be able to provide such toll service before having to provide toll dialing parity to their customers. Moreover, non-BOC LECs that implement intraLATA and interLATA toll dialing parity may choose whichever LATA within their state that they deem to be most appropriate to define the area within which they will offer intraLATA toll dialing parity. State commissions in ruling upon such a choice of LATA association shall determine whether the proposed LATA association is pro-competitive and otherwise in the public interest. We note, however, as discussed above, that states may redefine the toll dialing parity requirement based on state, rather than LATA, boundaries where a state deems such a requirement to be pro-competitive and otherwise in the public interest.

60. We decline to adopt the recommendations of parties that urge us to require BOCs to provide toll dialing parity in a state before the earlier of the date on which those BOCs receive authority to provide in-region, interLATA services in that state or February 8, 1999. Subject to the requirements of the 1996 Act, we do, however, authorize states to determine whether a more accelerated implementation schedule should be utilized for LECs operating within their jurisdictions.[134] Where a state issued an order by December 19, 1995 requiring a BOC to implement toll dialing parity in advance of the implementation deadlines we establish, we do not intend to extend the toll dialing parity implementation deadline for the BOC beyond the implementation deadline established by that state. In addition, where a state

---

[131] NECA reply at 3-4; *see also* Rural Tel. Coalition comments at 6-7; GVNW comments at 5.

[132] MFS comments at 6.

[133] *Id.*; *cf.* Ohio Commission comments at 9 (new entrant LECs should be required to implement intraLATA toll dialing parity coincident with their offering of local telephone service since new entrants can equip their network switches to provide dialing parity before installation).

[134] *See* 47 U.S.C. § 271(e)(2)(b).

issued an order prior to the release of this *Order* requiring a LEC, other than a BOC, to implement toll dialing parity in advance of the implementation deadlines we establish, we do not intend to extend the toll dialing parity implementation deadline for the LEC beyond the implementation deadline established by that state.

61. We further conclude that LECs, other than BOCs, that begin providing in-region, interLATA or in-region, interstate toll services before August 8, 1997, including LECs that currently offer such services, are not required to implement toll dialing parity until August 8, 1997.[135] We do not mandate compliance with the toll dialing parity requirement by these LECs "coincident with" their provision of in-region, interLATA or in-region, interstate toll services because it would place certain carriers in violation of this order upon its release and would impose an unreasonably short timetable on others. To the extent that a LEC is unable to comply with the August 8, 1997 deadline, that LEC is required to notify the Commission's Common Carrier Bureau by May 8, 1997. The notification must state, in detail, the justification for the LEC's inability to comply by August 8, 1997 and set forth the date by which it will be able to implement toll dialing parity.[136] Finally, we have considered the arguments of LECs that seek to make their toll dialing parity obligation contingent upon the receipt of a *bona fide* request and conclude that special implementation schedules for smaller LECs are unnecessary because these LECs may petition their state commission, pursuant to section 251(f)(2), for a suspension or modification of the application of the dialing parity requirements.[137]

62. In summary, we establish the following toll dialing parity implementation schedule and filing deadlines for all LECs:

(a) Each LEC, including a BOC, must implement intraLATA and interLATA toll dialing parity based on LATA boundaries no later than February 8, 1999. If the state

---

[135] We note that the 1996 Act distinguishes between in-region services, for which BOCs must receive Commission authority to provide under section 271(d)(1), 47 U.S.C. § 271(d)(1), and out-of-region services, which BOCs are currently authorized to provide. *See* 47 U.S.C. § 271(b)(1), (b)(2). We note that for non-BOC LECs, it is the provision of toll services outside of the LEC's study area or the provision of interstate toll services that triggers the duty to provide toll dialing parity. We use the term in-region, interLATA or in-region interstate toll services to include those toll services, the provision of which by a LEC triggers the LEC's duty to provide toll dialing parity.

[136] As recently noted in the context of waiver petitions for certain caller identification rules, the Commission will not hesitate to take enforcement action, including monetary fines and other remedial measures against carriers that are unable to provide a compelling justification for failing to comply with Commission rules, particularly when they have been given a reasonable period within which to comply. *See Rules and Policies Regarding Calling Number Identification Service -- Caller ID*, CC Docket No. 91-281, Memorandum Opinion and Order, DA 96-875 (1996).

[137] 47 U.S.C. § 251(f)(2).

commission elects not to evaluate a LEC's toll dialing parity implementation plan,[138] the LEC must file that plan with the Commission not later than 180 days before February 8, 1999.

(b) Except as provided in subparagraph (c) below, a LEC, including a BOC, that begins to provide in-region, interLATA toll services or in-region, interstate toll services in a state before February 8, 1999, must implement intraLATA and interLATA toll dialing parity based on LATA boundaries coincident with its provision of in-region, interLATA or in-region, interstate toll services. If the state commission elects not to evaluate its toll dialing parity implementation plan, the LEC must file such plan with the Commission not later than 180 days before the date on which it begins to provide in-region, interLATA toll services.

(c) A LEC, other than a BOC, that begins to provide in-region, interLATA or in-region, interstate toll services in a state before August 8, 1997, must implement intraLATA and interLATA toll dialing parity based on LATA boundaries by August 8, 1997. If the LEC is unable to comply with this August 8, 1997, implementation deadline, the LEC must notify the Commission's Common Carrier Bureau by May 8, 1997. At that time it must state its justification for noncompliance by August 8, 1997, and set forth the date by which it will be able to implement toll dialing parity. If the state commission elects not to evaluate the LEC's toll dialing parity implementation plan, the LEC must file such plan with the Commission not later than 90 days after publication of this *Order* in the Federal Register.

63. We further conclude that the 1996 Act does not authorize the Commission to give effect to a state order that purports to grant a BOC a deferral, waiver or suspension of the BOC's obligation to implement dialing parity. We note that section 251(f)(2) provides procedures for suspending or modifying application of the dialing parity requirements only for certain LECs, *i.e.*, those "with fewer than 2 percent of the Nation's subscriber lines installed in the aggregate nationwide."[139] Given that section 251 contains no comparable procedures for larger LECs, we are persuaded that Congress intended the dialing parity requirements that we adopt pursuant to section 251(b)(3) to apply, without exception, to all LECs with 2 percent or more of the Nation's subscriber lines.

[138] For a discussion of the content of and procedures relating to the toll dialing parity implementation plans, *see* section II.B(2) *supra*.

[139] 47 U.S.C. § 251(f)(2).

D. Implementation of the Local Dialing Parity Requirements

1. In General

a. Background

64. The *NPRM* tentatively concluded that, pursuant to section 251(b)(3), a LEC is required to permit telephone exchange service customers within a defined local calling area to dial the same number of digits to make a local telephone call, notwithstanding the identity of a customer's or the called party's local telephone service provider.[140] The *NPRM* sought comment on this tentative conclusion.[141]

b. Comments

65. Nearly all parties concur with the Commission's proposed interpretation of the local dialing parity requirements of section 251(b)(3).[142] Ameritech contends, however, that the 1996 Act requires only that local calls between competing LECs be dialed without the use of an access code.[143] Ameritech states that, while the Senate version of the dialing parity provision would have required LECs to provide customers with the ability "to dial the same number of digits" when using any carrier providing telephone exchange and exchange access service in the same area, Congress narrowed the dialing parity obligation in the final legislation to require only that calls between competing LECs be dialed without the use of an access code.[144] In response to Ameritech's proposed interpretation of the local dialing parity requirements, the Ohio Consumers' Counsel asserts that it does "not believe that consumers would see any real functional difference between having to dial extra digits and having to dial an access code" and, thus, urges that customers not be required to dial access codes or extra digits when using a competing provider's services.[145]

66. Ameritech also asks the Commission to clarify that "the dialing parity obligation applies only to competing carriers that provide both telephone exchange service *and* telephone

---

[140] *NPRM* at para. 211.

[141] *Id.*

[142] *See, e.g.*, ALTS comments at 4; GTE comments at 8; Ohio Commission comments at 8.

[143] Ameritech comments at 3-4. Notwithstanding its interpretation of the local dialing parity requirements, Ameritech notes that it has exceeded these requirements by establishing interconnection arrangements that allow customers of competing LECs to complete calls by dialing the same number of digits. *Id.* at 4.

[144] *Id.*

[145] Ohio Consumers' Counsel reply at 2.

toll service (*i.e.*, competing LECs)."[146] Finally, USTA urges the Commission to clarify that section 251(b)(3) does not include an obligation to provide dialing parity to CMRS providers.[147] USTA contends that the provision of dialing parity to CMRS providers by LECs would complicate implementation of "sender pays" arrangements that have been adopted in certain states if dialing parity were interpreted to preclude the use of extra digits and/or recorded announcements associated with a "sender pays" arrangement.[148] USTA expresses concern that customers may receive bills for calling CMRS customers without advance notice that they are going to be billed for such calls.[149]

c. Discussion

67. We adopt our tentative conclusion that, pursuant to section 251(b)(3), a LEC is required to permit telephone exchange service customers within a defined local calling area to dial the same number of digits to make a local telephone call, notwithstanding the identity of a customer's or the called party's local telephone service provider. As we stated in the *NPRM*, we believe that this interpretation of the dialing parity requirement as applied to the provision of telephone exchange service would best facilitate the introduction of competition in local markets by ensuring that customers of competitive service providers are not required to dial additional access codes or personal identification numbers in order to make local telephone calls. We disagree with Ameritech's view that Congress intended only to preclude the use of access codes and did not intend to preclude the dialing of extra digits. The fact that Congress ultimately adopted a dialing parity definition that precludes "the use of any access code"[150] does not constrain the Commission from precluding the dialing of extra digits, including access codes. Given that the statute does not define the term "access code," we conclude that our interpretation of the local dialing parity requirement will avoid potential disputes concerning what is and what is not an "access code." We are also persuaded by the argument advanced by the Ohio Consumers' Counsel that consumers would not perceive a functional difference between having to dial extra digits and having to dial an access code when using a competing provider's services.

---

[146] Ameritech comments at 3 n.6 (emphasis in original).

[147] USTA comments at 5.

[148] *Id.* In this context, the term "sender pays" refers to an arrangement under which a customer who originates a call to a CMRS customer pays the cost of airtime for terminating the call. Under a sender pays arrangement, the customer typically receives information regarding the price of the call before the call is placed. Once the customer receives this information, the customer then may decide whether or not to complete the call. Sender pays arrangements are atypical insofar as it is the CMRS customer who generally pays the cost of airtime for terminating calls.

[149] *Id.*

[150] 47 U.S.C. § 153(15).

68. We conclude that Ameritech's additional argument that the dialing parity obligation applies only to competing carriers that provide both telephone exchange service *and* telephone toll service, represents an impermissibly narrow reading of the statute. We find that the phrase "providers of telephone exchange service and telephone toll service" imposes an obligation on LECs to provide dialing parity to providers of solely telephone exchange service, to providers of solely telephone toll service, or to providers of both telephone toll and exchange service. We believe that this interpretation is consistent with both the language of the statute and Congress' intent to encourage the entry of new competitors in both the local and toll markets.[151] We reject USTA's argument that the section 251(b)(3) dialing parity requirements do not include an obligation to provide dialing parity to CMRS providers.[152] To the extent that a CMRS provider offers telephone exchange service, such a provider is entitled to receive the benefits of local dialing parity. Regarding USTA's argument that applying section 251(b)(3) in a way that benefits CMRS providers could complicate implementation of sender pays arrangements in some states, we conclude that the record before us is insufficient to determine whether, or under what circumstances, sender pays arrangements, including those requiring the dialing of extra digits or recorded announcements, are consistent with the 1996 Act. Although we do not intend to preclude the states from lawfully enforcing legitimate consumer protection policies that do not have an anticompetitive impact, we cannot conclude on this record that the arrangements USTA describes would be permissible. Finally, given our expectation that local dialing parity will be achieved through LECs' compliance with other section 251 requirements, we do not adopt a timetable for implementing the local dialing parity requirements.

2. Local Dialing Parity Methodologies

a. Background and Comments

69. In the *NPRM*, we stated our expectation that the local dialing parity obligations would not be achieved through presubscription.[153] Rather, we anticipated that a customer's ability to select a telephone exchange service provider and make local telephone calls without dialing extra digits will be accomplished through the unbundling, number portability and

---

[151] As the U.S. Court of Appeals for the Fifth Circuit stated in *Peacock v. Lubbock Compress Company*, "the word 'and' is not a word with a single meaning, for chameleonlike, it takes its color from its surroundings." The court held that "[i]n the construction of statutes, it is the duty of the Court to ascertain the clear intention of the legislature. In order to do this, Courts are often compelled to construe 'or' as meaning 'and,' and again 'and' as meaning 'or'." *Peacock v. Lubbock Compress Company*, 252 F.2d 892, 893 (5th Cir. 1958) (*citing United States v. Fisk*, 70 U.S. 445, 448 (1865).

[152] *See* section X of the *First Report and Order* for a discussion of the applicability of section 251 to CMRS providers.

[153] *NPRM* at para. 207 n.284.

interconnection requirements of section 251.[154] The *NPRM* sought information and comment as to how the local dialing parity requirement should be implemented.[155]

70. The parties generally agree that local dialing parity will be accomplished through implementation of the unbundling, number portability and interconnection requirements of section 251.[156] Parties add to this list the 1996 Act's equal access requirements.[157] A few parties contend that local dialing parity is assured once competing providers of telephone exchange service are permitted nondiscriminatory access to telephone numbers.[158]

b. Discussion

71. We anticipate that local dialing parity will be achieved upon implementation of the number portability and interconnection requirements of section 251. We also concur with the view that the ability of competing local exchange service providers to receive telephone numbers on a nondiscriminatory basis is critical to the achievement of local dialing parity. We believe that the interconnection requirements that section 251(c)(2) imposes on incumbent local exchange carriers will reduce the likelihood that customers of a competing LEC will have to dial an access code to reach a customer of the incumbent LEC insofar as the two networks are connected. Number portability will ensure that customers switching local service providers will not need to dial additional digits to make local telephone calls. Likewise, allowing every telecommunications carrier authorized to provide local telephone service, exchange access, or paging service in an area code to have at least one NXX in an existing area code also reduces the potential local dialing disparity that may result if competing LECs can only give customers numbers from a new area code. We therefore decline to prescribe now any additional guidelines addressing the methods that LECs may use to accomplish local dialing parity. We also conclude that, contrary to the views expressed by some parties, the provision of nondiscriminatory access to telephone numbers, by itself, does not fulfill the local dialing parity mandate of section 251(b)(3). Given that acquisition of a central office code by a LEC would not necessarily ensure that the LEC's customers would be relieved of an obligation to dial extra digits, access codes or some other special dialing protocol, the provision of nondiscriminatory access to telephone numbers does not by itself ensure local dialing parity. Rather, we find that under section 251(b)(3) each LEC must ensure that its customers within a defined local calling area be able to dial the same number of digits to make a local telephone call notwithstanding the identity of the calling party's or called party's local telephone service provider.

---

[154] *Id.*

[155] *NPRM* at paras. 209, 211.

[156] *See, e.g.*, SBC comments at 3 n.4; NEXTLINK comments at 8.

[157] *See, e.g.*, BellSouth comments at 9.

[158] *See, e.g.*, U S WEST comments at 6.

3. Non-Uniform Local Calling Areas

a. Background

72. The *NPRM* tentatively concluded that, pursuant to section 251(b)(3), a LEC is required to permit telephone exchange service customers within a defined local calling area to dial the same number of digits to make a local telephone call, notwithstanding the identity of a customer's or the called party's local telephone service provider.[159] The *NPRM* did not address the potential dialing parity implications of non-uniform local calling areas[160] nor did it address the potential impact of our proposed interpretation of the local dialing parity obligation on local calling area boundaries.[161]

b. Comments

73. A number of parties express concern about the potential interrelationship between our proposed interpretation of the local dialing parity requirements and local calling area boundaries.[162] For example, WinStar cautions the Commission that by requiring that customers "within a defined local calling area" be able to dial the same number of digits to make a local telephone call, certain parties may interpret this to require that a competing provider of local exchange service must define its local calling area to match the local calling area of the incumbent LEC.[163] GSA/DOD maintains that dialing is not truly at parity if different carriers have different definitions of the geographic areas in which calls can be made with seven-digit dialing.[164] To address the potential dialing parity issue that may arise when a new entrant's "network coverage" is more limited than the incumbent LEC's, GSA/DOD

---

[159] *NPRM* at para. 211.

[160] We use the term "non-uniform local calling area" to refer to a situation in which a telephone exchange service provider's local calling area is either larger or smaller than that of another telephone exchange service provider that is providing telephone exchange service in the same geographic area.

[161] Insofar as parties contend that the section 251(b)(3) dialing parity requirements compel the use of a ten-digit dialing plan for local calls within an area code overlay (*see, e.g.*, MFS comments at 3-5), we note that these concerns are addressed more fully below in paragraphs 286 through 287.

[162] *See, e.g.*, WinStar comments at 10-11; GSA/DOD comments at 4-5; Florida Commission comments at 3.

[163] WinStar comments at 10-11 ("The Commission should proceed carefully to ensure that it does not inadvertently limit carriers from experimenting with local calling areas."); *see also*, U S WEST comments at 6 (where dialing parity disputes arise over fact that local calling areas of two competing LECs do not match, states should resolve such disputes since they are familiar with local calling areas and calling patterns in that state).

[164] GSA/DOD comments at 4.

recommends that the Commission adopt rules that ensure that local calling areas are consistently defined for LEC wholesale and retail services.[165]

74. GTE contends that "[s]o long as new entrants have the technical ability to deploy equipment necessary to offer the same seven-digit dialing as the incumbent LEC, dialing parity should be deemed to exist even if one or more of the new entrants ultimately chooses to provide ten-digit dialing."[166] To illustrate its point that all local calls cannot be dialed using the same number of digits, NYNEX notes that in the New York City Metro LATA local calls span three different area codes, with seven-digit dialing within an area code and ten-digit dialing between area codes.[167] Finally, the Florida Commission expresses concern regarding the potential customer confusion that may result if customers in local calling areas are required to dial ten rather than the currently dialed seven digits to make local "Extended Calling Service" calls.[168]

c. Discussion

75. A telephone call requiring seven-digit dialing is not necessarily a local call[169] and a telephone call requiring ten-digit dialing is not necessarily a toll call.[170] Disparity in local dialing plans, by itself, does not contravene our interpretation of the local dialing parity requirements unless such plans are anti-competitive in effect.[171] By requiring that all customers "within a defined local calling area" be able to dial the same number of digits to make a local telephone call, we do not intend to require a competing provider of local exchange service to define its local calling area to match the local calling area of an incumbent LEC. We further do not intend to require a competing provider of telephone exchange service that voluntarily chooses to provide ten-digit as opposed to seven-digit dialing in a local calling area to modify its dialing plan in this instance in order to conform to

---

[165] *Id.* at 5.

[166] GTE comments at 8 n.10.

[167] NYNEX comments at 3 n.6.

[168] Florida Commission comments at 3.

[169] We note that several states permit seven-digit dialing for toll calls. *North American Numbering Plan, Area Codes 1996 Update*, Bellcore (January 1996) at 14. For example, within the 518 area code a call from Clifton Park, New York to Hague, New York is a toll call that can be dialed with seven digits.

[170] Section 3(48) defines "telephone toll service" as "telephone service between stations in different exchange areas for which there is made a separate charge not included in contracts with subscribers for exchange service." 47 U.S.C. § 153(48). By contrast, charges for calls within a local calling area generally are not assessed on a per call basis. Thus, the construct of local calling areas serves as the basis by which carriers price their services.

[171] *See, e.g.*, the discussion at paras. 281-291 regarding the discriminatory and anticompetitive nature of a service-specific or technology-specific overlay in connection with area code relief plans.

the dialing plan of another LEC. No other commenter addressed GSA's proposal that the Commission adopt rules that ensure that local calling areas are consistently defined for LEC wholesale and retail services. Therefore, we conclude that the record is insufficient to permit us to take such action at this time.

E. Consumer Notification and Carrier Selection Procedures

a. Background

76. Section 251(b)(3) does not specifically require that procedures be established to permit consumers to choose among competitive telecommunications providers (*e.g.*, through balloting).[172] The *NPRM* sought comment as to whether the Commission should require LECs to notify consumers about carrier selection procedures or impose any additional consumer education requirements.[173] We also sought comment on an alternative proposal that would make competitive telecommunications providers responsible for notifying customers about carrier choices and selection procedures through their own marketing efforts.[174]

b. Comments

77. Several parties contend that the responsibility for consumer education should be borne, at least in part, by the incumbent LECs[175] and claim that incumbent LECs are uniquely situated to assist in this function.[176] Conversely, others maintain that responsibility for the notification and education of consumers should be imposed on the carriers seeking those customers' business, as part of those carriers' marketing efforts.[177] GSA/DOD favors letting carriers "fight it out among themselves," noting that carriers themselves will have every incentive to make sure that prospective customers are aware of their choices.[178] PacTel suggests that states are in the best position to assess the informational needs of their citizens.[179] Several commenters express concern that any customer notification requirement

---

[172] 47 U.S.C. § 251(b)(3).

[173] *NPRM* at para. 213.

[174] *Id.*

[175] *See, e.g.*, ACSI comments at 10; Ameritech comments at 20; California Commission comments at 4.

[176] *See, e.g.*, Illinois Commission comments at 67; ACSI comments at 10 (incumbent LECs should be required to provide bill inserts to customers alerting them to opportunity to select alternative service provider).

[177] *See, e.g.*, CBT comments at 5; Bell Atlantic comments at 5; Frontier comments at 4; BellSouth reply at 4; GTE reply at 15.

[178] GSA/DOD comments at 6.

[179] PacTel comments at 13.

must recognize that the details of any such notification plan should reflect local circumstances, including local carrier selection options, rates and dialing plans.[180] Ameritech maintains that a "carrier-neutral customer notification of the toll dialing parity selection processes is in the public interest and should be a part of the implementation of any toll dialing parity plan."[181]

78. While several commenters urge the Commission to adopt rules for balloting,[182] the majority of parties urge us to reject this option.[183] Parties that oppose balloting argue that such decisions should be left to the individual states[184] and claim that balloting is confusing to customers,[185] costly,[186] and forces consumers to make selections before they might otherwise choose to do so.[187] Commenters also argue that competition for customers will ensure that carriers notify customers as to how their services can be obtained.[188] In stating its opposition to a balloting requirement, MFS observes that:

> the long-distance market today differs markedly from the situation in the mid-1980's, when non-dominant carriers were virtually unknown to most consumers and balloting was mandated as a way of educating consumers to their ability to choose a carrier. No such education is needed today, because most consumers are well aware of their long-distance choices, and the carriers have readily available means of contacting those who are not.[189]

79. Commenters also raised a number of issues related to consumer notification and carrier selection methods. For example, PacTel asserts that "the default carrier for both existing and new customers who do not actively choose an intraLATA toll provider should be the dial-tone provider."[190] Sprint agrees that "existing customers who are currently obtaining

---

[180] *See, e.g.*, Ameritech comments at 21; GTE comments at 12; PacTel reply at 13.

[181] Ameritech comments at 20.

[182] *See, e.g.*, NEXTLINK comments at 9; Excel comments at 7.

[183] *See, e.g.*, Ohio Consumers' Counsel comments at 3; SBC reply at 1; MFS reply at 12; CBT reply at 3-4.

[184] *See, e.g.*, Florida Commission comments at 2; PacTel reply at 13.

[185] *See, e.g.*, Ohio Commission comments at 7.

[186] *See, e.g.*, GTE comments at 13; Sprint comments at 4.

[187] Ameritech comments at 20.

[188] *See, e.g.*, GTE comments at 13; U S WEST comments at 8.

[189] MFS comments at 6.

[190] PacTel comments at 11.

intraLATA toll service from the dial tone provider, and do not indicate a desire to change carriers, should remain with that intraLATA toll provider."[191] Sprint rejects PacTel's proposal, however, "to default new customers who do not choose an intraLATA toll provider to the dial tone provider."[192] Concerning whether customers should be assessed a "PIC change charge" when they select an alternative provider of telephone toll or telephone exchange service, parties propose allowing customers a "grace period" during which they could switch carriers without charge.[193] The Ohio Consumers' Counsel supports a cap on the cost of initiating both local and toll service with a new carrier, noting that a "customer's old carrier should not be able to impose an 'exit fee' upon the customer who switches."[194] Finally, GVNW urges that the Commission's rules, complaint procedures and penalties for "slamming" be applied to any carrier selection procedures that the Commission adopts with respect to local exchange service providers.[195]

c. Discussion

80. We agree with those commenters who observe that competitive providers of telephone exchange and telephone toll service have an incentive to make consumers aware of the choices available, and we perceive no need to prescribe detailed consumer notification or carrier selection procedures at this time. We do believe, however, that states may adopt such procedures. The states are best positioned to determine the consumer education and carrier selection procedures that best meet the needs of consumers and telecommunications services providers in their states. Thus, states may adopt consumer education and carrier selection procedures that will enable consumers to select alternative carriers for their local and toll services. We further agree that a customer notification requirement should take into consideration local circumstances. The states may adopt balloting, consumer education and notification requirements for services originating within their states, that are not anti-competitive in effect. States also may adopt measures to prevent abuse of the customer notification and carrier selection processes. All such procedures, however, must be consistent with the guidelines set forth above with respect to the requisite categories of toll traffic for which consumers must be entitled to presubscribe and the toll presubscription method that we require carriers to implement. We note that the consumer notification requirements already

---

[191] Sprint reply at 5-6 n.8.

[192] *Id.* On a related issue, AT&T urges the Commission to intercede where abuse of the customer notification process occurs, such as when a LEC uses its "provision of exchange service to influence toll PIC choices." AT&T comments at 6 n.9. AT&T adds that the Commission should prohibit LECs from extending interLATA PIC "freezes" to intraLATA traffic. *Id.*

[193] Ohio Commission comments at 7 (proposing 90 day grace period with a charge for subsequent changes); Citizens Utilities comments at 6-7 (proposing 6 month grace period).

[194] Ohio Consumers' Counsel reply at 2.

[195] GVNW comments at 7.

imposed by states' intrastate, intraLATA toll dialing parity orders have required LECs to inform customers either once or twice of their opportunity to choose an alternative carrier.[196] We anticipate that any subsequently imposed consumer notification requirements would be no more be burdensome, and, in particular, would not require more than two notifications to consumers of their opportunity to choose alternative carriers to transport their intraLATA toll calls.

81. We conclude that "dial-tone providers" should not be permitted automatically to assign to themselves new customers who do not affirmatively choose a toll provider. New customers of a telephone exchange service provider who fail affirmatively to select a provider of telephone toll service, after being given a reasonable opportunity to do so, should not be assigned automatically to the customer's dial-tone provider or the customer's preselected interLATA toll or interstate toll carrier. Rather, we find that consistent with current practices in the interLATA toll market, such nonselecting customers should dial a carrier access code to route their intraLATA toll or intrastate toll calls to the carrier of their choice until they make a permanent, affirmative selection. This action eliminates the possibility that a LEC could designate itself automatically as a new customer's intraLATA or intrastate toll carrier without notifying the customer of the existence of alternative carrier choices. Finally, notwithstanding our decision to entrust the issues of consumer notification and carrier selection to the states, we emphasize that all telecommunications carriers remain subject to the requirements of section 258 as well as any verification or "anti-slamming"[197] procedures that the Commission may adopt to prevent unauthorized changes in a customer's selection of a provider of telephone exchange or telephone toll service.[198]

---

[196] *See, e.g., Adoption of rules relating to intra-Market Service Area presubscription and changes in dialing arrangements related to the implementation of such presubscription,* Interim Order (Ill. Comm. Comm'n. Apr. 7, 1995).

[197] The Commission has defined slamming as the unauthorized conversion of a customer's interexchange carrier by another interexchange carrier, an interexchange resale carrier, or a subcontractor telemarketer. *Cherry Communications, Inc. Consent Decree*, 9 FCC Rcd 2986, 2987 (1994).

[198] Section 258 makes it unlawful for any telecommunications carrier to "submit or execute a change in a subscriber's selection of a provider of telephone exchange service or telephone toll service except in accordance with such verification procedures as the Commission shall prescribe." 47 U.S.C. § 258(a). The section further provides that:

> [a]ny telecommunications carrier that violates the verification procedures described in subsection (a) and that collects charges for telephone exchange service or telephone toll service from a subscriber shall be liable to the carrier previously selected by the subscriber in an amount equal to all charges paid by such subscriber after such violation.

47 U.S.C. § 258(b). Section 258 extends the slamming prohibition to all telecommunications carriers, not just interexchange carriers, as is the case under the Commission's current Part 64 rules. *See* 47 C.F.R. § 64.1100.

F. Cost Recovery

a. Background

82. In the *NPRM*, the Commission noted that the 1996 Act does not specify how LECs will recover the costs associated with providing dialing parity to competing providers.[199] The Commission therefore sought comment on: (1) what, if any, standard should be used for arbitration to determine the dialing parity implementation costs that LECs should be permitted to recover; and (2) how those costs should be recovered.[200]

b. Comments

83. At the outset, we note that there does not appear to be a consensus among commenters as to either of the two cost recovery issues raised in the *NPRM*. The parties are generally divided into two positions: (1) interexchange carriers and competitive carriers prefer a Commission standard under which carriers could recover from competing providers only the specific incremental costs of providing intraLATA toll dialing parity; and (2) incumbent LECs and several states prefer that no national standards be developed, and that cost recovery issues be left either to the states or to intercarrier negotiations.

84. AT&T suggests that carriers only be entitled to recover incremental costs directly associated with the implementation of dialing parity, and states that the Commission should "explicitly exclude (a) recovery of costs intended to reimburse an incumbent carrier for revenues it expects to lose as a result of implementing dialing parity . . . as well as (b) costs associated with network upgrades that are not necessary to implement dialing parity."[201] AT&T further suggests that the Commission mandate an "Equal Access Recovery Charge" on all providers of toll service based on minutes of use subject to dialing parity, and that this charge be tariffed separately from any access charges, approved by the state commission, and amortized over a period not to exceed eight years.[202]

85. MCI appears to agree with AT&T's proposal, stating that "incremental costs incurred to implement dialing parity should be recovered from all carriers that carry intraLATA toll on a presubscribed basis in accordance with cost causative principles."[203] MCI also suggests that dialing parity costs be recovered on a minutes-of-use basis, as an addition to the local switching rate element, which would be separately identified in a tariff, and that

---

[199] *NPRM* at para. 219.

[200] *Id.*

[201] AT&T comments at 7.

[202] *Id.*

[203] MCI comments at 3.

Commission rules for cost recovery be "presumptively correct" (*i.e.*, states can depart from such rules if they can show their mechanism is more effective).[204] Several parties urge the Commission to draw upon its cost recovery paradigms for interLATA equal access, and apply the same basic principles to the intraLATA toll market.[205]

86. Many other competitive providers also advocate various forms of incremental cost recovery, on a per-minutes of use basis, to be assessed against all providers of presubscribed intraLATA toll services; such costs could include, for example, hardware costs, software costs, and consumer education costs.[206] GSA/DOD asks the Commission to "view LEC claims for large cost compensation with considerable skepticism," and suggests that the Commission "distribute any verifiable incremental costs associated with achieving dialing parity as a percentage surcharge on the bills of all carriers, including the incumbent LECs."[207]

87. Taking the opposite view, BOC commenters, together with GTE and USTA, argue that there is essentially no need for the Commission to adopt cost recovery measures for dialing parity, and that cost recovery issues are best left for the states to address.[208] Several state public utility commissions also argue that, given the state-specific nature of intraLATA cost recovery issues, and the omission of a specific cost-recovery standard from Congress in section 251(b)(3), the individual states are in the best position to address these issues.[209] In support of these arguments, some state commenters have provided the Commission with detailed descriptions of their current mechanisms for recovering intraLATA presubscription costs.[210]

88. Ameritech argues that dialing parity costs "should be recovered under normal regulatory principles from the cost-causer," and Bell Atlantic argues that "only carriers who will benefit from intraLATA presubscription should pay the costs. Unless interexchange carriers bear the full costs of implementing intraLATA presubscription, exchange carrier customers who do not switch intraLATA toll carriers and do not benefit from presubscription

---

[204] *Id.* at 7-8.

[205] *See, e.g.*, GVNW comments at 8; MCI comments at 7.

[206] *See, e.g.*, Citizens Utilities comments at 6; GSA/DOD comments at 6-8.

[207] GSA/DOD comments at 6-7, 8.

[208] *See* Bell Atlantic comments at 5; GTE comments at 20-21; NYNEX comments at 10-11; PacTel comments at 17; SBC comments at 9; USTA comments at 4.

[209] *See* Illinois Commission comments at 72; Indiana Commission comments at 9; Ohio Consumers' Counsel comments at 4; and Ohio Commission comments at 11.

[210] *Id.; see also* Louisiana Commission comments at 7.

would ultimately be required to pay for it."[211] On the other extreme, the Telecommunications Resellers Association states that incumbent LECs should "shoulder the full financial burden of remedying this competitive imbalance [in the intraLATA toll market]."[212]

89. The reply comments reveal substantial disagreement among carriers from the two opposing positions. Interexchange carriers and competitive carriers reject the suggestion that they shoulder the full cost burden for intraLATA dialing parity, and urge that, at a minimum, costs be spread among all service providers that enjoy dialing parity.[213] AT&T states that "the proposal by Ameritech and Bell Atlantic to recover implementation costs exclusively from their competitors underscores the need for explicit national rules. . . . [n]othing could be more. . .harmful to competition, than allowing incumbent LECs to charge a fee for new entrants for the "privilege" of competing with them."[214] GSA/DOD also urges the Commission to "reject" the proposals of Bell Atlantic and SBC.[215] MFS correctly notes that there was "little consensus" on this issue, and states "it is entirely inappropriate in a competitive environment that an individual carrier's costs be recovered from its competitors."[216] The Ohio Consumer's Counsel states that Ameritech's "cost-causer" proposal "ignores the fact that the benefits of dialing parity are network-wide."[217]

90. Incumbent LECs maintain that the Commission should not set national cost recovery standards, and that this matter remains the prerogative of the states.[218] GTE "strongly opposes" AT&T's suggestions, and PacTel states that "LECs cost recovery should not be limited by noncompensatory incremental methodologies or unreasonably long amortization requirements."[219] SBC asserts that the proposals of MCI and AT&T are "examples of regulatory micro-management, are inconsistent with Congressional intent, and

---

[211] Ameritech comments at 10; Bell Atlantic comments at 5.

[212] Telecommunications Resellers Association comments at 8.

[213] *See, e.g.,* Sprint reply at 12; Telecommunications Resellers Association reply at 7; WinStar reply at 12.

[214] AT&T reply at *iii.*

[215] GSA/DOD reply at 8.

[216] MFS reply at 14.

[217] Ohio Consumers' Counsel reply at 4.

[218] *See* Bell South reply at 4; Bell Atlantic reply at 5; NYNEX reply at 4; PacTel reply at 18; and USTA reply at 5.

[219] PacTel reply at *iii.*

would also. . .place the major burden of dialing parity cost recovery squarely on the backs of incumbent LECs."[220]

91. GCI states that "costs should be recovered in a competitively neutral manner because all LECs, not just incumbent LECs, must meet this obligation."[221] Western Alliance contends that "costs incurred to achieve dialing parity should be included in the investment recoverable through explicit universal [service] supports."[222] Finally, NECA argues that there is no need for the Commission to prescribe specific cost recovery mechanisms.[223]

c. Discussion

92. We conclude that, in order to ensure that dialing parity is implemented in a pro-competitive manner, national rules are needed for the recovery of dialing parity costs. We further conclude that these costs should be recovered in the same manner as the costs of interim number portability, as mandated in our recent *Number Portability Order*.[224] Our authority to promulgate national cost recovery rules derives from section 251(d) of the 1996 Act and section 4(i) of the 1934 Act. In section 251(d), Congress directed the Commission to take the necessary steps to implement section 251. Section 4(i) of the 1934 Act authorizes us to take any action we consider "necessary and proper" to further the public interest in the regulation of telecommunications. Because we determine that dialing parity is crucial to the development of local exchange competition, we conclude that we should establish pricing principles for the recovery of dialing parity costs. Accordingly, we reject the arguments of incumbent LECs and others who oppose national standards for cost recovery of the network upgrades required to achieve dialing parity.

93. Many of the network upgrades necessary to achieve dialing parity, such as switch software upgrades, are similar to those required for number portability. Moreover, with both dialing parity and number portability, customer inconvenience represents the barrier to effective competition Congress intends to eliminate, whether that inconvenience results from the dialing of extra digits in the case of dialing parity, or notification of family, friends and business contacts when a customer is forced to change his or her number. For these reasons, we determine that our recent *Number Portability Order* provides guidance regarding which costs incumbent LECs should be able to recover in implementing dialing parity, as well as how such costs should be recovered. The rules adopted in the *Number Portability Order*

---

[220] SBC reply at 8.

[221] GCI reply at 2.

[222] Western Alliance reply at 2 n.6.

[223] NECA reply at 2.

[224] *Telephone Number Portability*, FCC 96-286, CC Docket No. 95-116 (July 2, 1996) (*Number Portability Order*).

apply only to currently-available number portability mechanisms. We sought further comment on cost recovery for long-term number portability, because long-term number portability will involve a different kind of system than currently available solutions. We tentatively concluded that under section 251(e)(2), the same cost recovery principles should apply to long-term number portability. In the case of dialing parity, there is a similar distinction between currently-available solutions (*i.e.*, full 2-PIC presubscription), and long-term solutions (*i.e.*, multi-PIC or smart-PIC methodologies). Like number portability, we may need to revisit the issue of an appropriate cost recovery standard once other presubscription technologies become available on a nationwide basis.

94. In the *Number Portability Order*, we concluded that costs for number portability should be recovered on a competitively-neutral basis.[225] We also concluded that any recovery mechanism should: (1) not give one service provider an appreciable, incremental cost advantage over another service provider, when competing for a specific subscriber; and (2) not have a disparate effect on the ability of competing service providers to earn a normal return.[226] We therefore reject the arguments of those commenters that assert that only new entrants should bear the costs of implementing dialing parity, because such an approach would not be competitively neutral. We also concluded in the *Number Portability Order* that LECs could only recover the incremental costs of implementing number portability. Because we determine that number portability and dialing parity share significant technical similarities and overcome similar barriers to competition, we conclude that we should impose the same cost standard for dialing parity costs that we have adopted for number portability costs. We therefore agree with AT&T that LECs may not recover from other carriers under a dialing parity cost recovery mechanism any network upgrade costs not related to the provision of dialing parity.

95. In our *Number Portability Order*, we concluded that the costs of long-term number portability that could be recovered through a competitively-neutral mechanism included installation of number portability-specific switch software, implementation of SS7 and IN or AIN capability, and the construction of number portability databases.[227] We determined that states could use several allocators, including gross telecommunications revenues, number of lines, and number of active telephone numbers, to spread number portability costs across all telecommunications carriers.[228] Applying the same cost recovery principles to dialing parity, we conclude that LECs may recover the incremental costs of dialing parity-specific switch software, any necessary hardware and signalling system

---

[225] Section 251(e)(2) of the 1996 Act states that "the cost of establishing ... number portability shall be born by all telecommunications carriers on a competitively neutral basis, as determined by the Commission." This statutory provision does not apply to the dialing parity requirement.

[226] *Number Portability Order* at paras. 121-140.

[227] *Id.* at para. 122.

[228] *Id.* at paras. 134-36.